

REMARKS

I. Summary of the Examiner's Action

A. Claim Rejections

As set forth in paragraph 3 on page 2 of the November 1 Office Action, claims 1 – 7, 11, 13, 15, 18 and 21 – 84 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent Application Publication No. 2002/0097750 to Gunaseelan *et al.* (hereinafter “Gunaseelan” or “the Gunaseelan application”).

As set forth in paragraph 4 on page 19 of the November 1 Office Action, claims 17, 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Gunaseelan application in view of United States Patent No. 6,842, 433 to West *et al.* (hereinafter “the West patent”).

These rejections are respectfully disagreed with and traversed below.

II. Applicant's Response

A. Rejection of Claims 1 – 16, 18 and 21 – 23 under 35 U.S.C. § 102(e)

Claims 1, 18, 22, 51, 63 and 72 have been amended. Support for the claim amendments may be found in the patent application as filed on page 9, lines 9 – 16 and page 6, lines 7 – 10. No new matter has been added.

Gunaseelan fails to disclose the feature of “*removing protocol headers from a data packet received at the client device to retrieve media data*” claimed in the amended independent claims.

Gunaseelan discloses a streaming content delivery system comprising a number of clients and a streaming server. In the streaming server there is a number of packet producers, in other words stream reader/processor entities, a time stamp packet queue and a feed module that removes packets from the time stamp packet queue and transmits the removed packets to a client via a network. The packet producers provide time stamps for the packets. The time stamps indicate the time when a packet should be transmitted by the feeder. The purpose of the time stamps is to make the feeder to conform to the requirements of individual clients and to ensure that no packets miss their deadlines for presentation in the client. The feeder must also be able to feed packets from the queue for delivery in a way that deals with the time stamp conflicts. A time stamp conflict occurs when two packets have close or the same time stamps so that the time stamps cannot be adhered to in the packet transmission process due to the time required to transmit a packet. The feeder performs packet scheduling at the interface to the network. The feeder also performs admission control for individual streams.

For a 102(e) rejection to be proper, the applied art must show each and every element as set forth in a claim (see MPEP 2131). Since Gunaseelan fails to teach or suggest at least one limitation of claim 1, claim 1 should be allowed.

Due to all of the foregoing reasons, Applicants respectfully submit that amended claims 1, 18, 22, 51, 63 and 72 are patentable over Gunaseelan. The pending dependent claims are allowable both as depending, either directly or indirectly, from the independent claims, and for reasons associated with their independently-recited features. Applicants therefore respectfully request that the pending dependent claims be allowed.

Due to all of the foregoing reasons, it is respectfully submitted that all of the claims present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested.

Applicants submit the following additional remarks further supporting the patentability of the dependent claims.

Further regarding the subject matter of claim 2, it should be noted that Gunaseelan fails to disclose the limitations of claim 2. Gunaseelan Application Serial No. 09/917,198 (which published as the Gunaseelan application) was filed on July 27, 2001 and claims the benefit of the filing date of Provisional Application No. 60/221,598.

Gunaseelan 20020097750 at paragraph 40, lines 3 – 7 states:

“Directing attention to Figure 14, when a client 104 requests delivery of a media asset from the server 102, the server 102 can query the

client 104 for values corresponding to the client's preread size and max buffer size parameters."

However, the provisional application Gunaseelan 60/221,598 fails to disclose this matter. Therefore the description cited above constitutes new matter and should not receive the benefit of the filing date of the provisional application. Since the filing date of Gunaseelan 20020097750 is later than the filing date of Applicants' application, Applicants traverse the rejection of claim 2 as being improper under 102(e).

The provisional application Gunaseelan 60/221,598 on page 5 discloses:

"We envision that the openMovie call (from the client to server) would return these parameters [pre-read size and max buffer size parameters] to the client indicating how much buffer should be allocated by the clients, and how much data should be pre-read before the playout starts."

These parameters are defined on Page 4 (last 6 lines on Page 4 in Section Client Side Buffering), 1) the amount of data pre-read before the playout starts (preReadSize) and 2) the size of the client-side buffer (maxBufferSize). According to the provisional application Gunaseelan 60/221,598, the server signals pre-read size and max buffer size parameters to the client. There is no suggestion or teaching in the provisional application Gunaseelan 60/221,598 that the client signals pre-read size and max buffer size parameters to the server.

The same argument applies for claims 4, 24, 26, 30, 32, 34, 43, 45, 46, 52, 54, 64, 66, 67, 73 and 75 all of which recite signaling sent from client to the server. For the same reason as described for claim 2, claims 4, 24, 26, 30, 32, 34, 43, 45, 46, 52, 54, 64, 66, 67, 73 and 75 should be allowable.

Regarding claim 7 it should be noted that claim 7 recites: “*providing the source server with a plurality of pre-encoded media streams representative of the same media content and signaling the client device to indicate at least one of a pre-decoder initial buffering time and a pre-decoder buffer size required in the client to ensure correct playback of each available pre-encoded media stream*”.

Gunaseelan 20020098850 at paragraph 23 lines 4 – 8 and lines 24 – 26 provides:

“Server 102 is responsible for distributing streaming media assets such as video, audio, static images, graphics, or a combination thereof to clients 104-1, 104-2, ..., 104-n, where n is the number of clients requiring streaming media assets, via public computer network 106. ... Media assets are typically stored in files in the memory of the server 102 and distributed to clients on demand or according to a schedule.”

There is no teaching or suggestion in Gunaseelan 20020097750 that a server according to Gunaseelan 20020097750 contains a plurality of pre-encoded media streams *representative of the same media content* (emphasis added) and the server signals to the client device to indicate pre-decoder parameters of one of the selected media stream.

Since Gunaseelan 20020097750 fails to teach or suggest at least one limitation of claim 7, the Applicants traverse the rejection of claim 7 as being improper under 102(e).

The same argument applies for claims 38, 59 and 80, all of which recite the same language as claim 7. For the same reasons as described for claim 7, claims 38, 59 and 80 should be allowed.

Regarding claim 11 it should be noted that Gunaseelan paragraph 43 provides:

“Also, one second’s worth of data for 800 Kbps stream is different from one second’s worth of data for 1.5 Mbps stream. That is, the parameters pre-read size and max buffer size are related to the bit rate of the media asset. For example, the pre-read size and max buffer size parameter value can vary between movies that are streamed over the network 106. A request for delivery of a media asset, such as an openMovie call made from the client to server returns these parameters from the server to the client indicating how much buffer should be allocated by the client, and how much data should be pre-read before the playout starts.”

Gunaseelan explicitly states that the *pre-read size and max buffer size parameter value can vary between movies* and the server sends these parameters to the client in response to openMovie. Claim 11 recites that “*pre-decoder buffer parameters [are] signaled by the source server during a streaming session*”. There is no suggestion or teaching in Gunaseelan that the “*pre-read size and max buffer size parameter is adjusted during the streaming session*”. Since Gunaseelan 20020097750 fails to teach or suggest

at least one limitation of claim 11, Applicants traverse the rejection of claim 11 as being improper under 102(e).

The same argument applies for claims 39, 50, 60, 71 and 81, all of which recite the same language as recited in claim 11. For the same reasons as described for claim 11, claims 39, 50, 60, 71 and 81 should be allowed.

Regarding claim 15 it should be noted that Gunaseelan paragraph 39, lines 1 – 3 provides:

“Traditionally, client side buffers located in memory 154 of the client 104 are used to smooth out jitter in the arrival rate of data at the client side.”

Gunaseelan only discloses “client side *buffers* located in memory of the client.” There is no teaching or suggestion of the arrangement of the client side buffers located in the client. Indeed, Gunaseelan fails to disclose any arrangement of the client side buffers. The post-decoder buffer according to claim 15 is placed after the source decoding operation to store the uncompressed video data. Applicants therefore traverse the rejection of claim 15 as being improper, since Gunaseelan fails to teach or suggest at least one limitation of claim 15. Claim 15 should be allowed.

Regarding claims 49 and 70 it should be noted that claim 49 recites: “*receive signaling from the source server indicative of at least one of a pre-decoder initial*

buffering time and a pre-decoder buffer size required to provide correct play-back of each of a number of different pre-encoded media streams representative of the same media content; select one of the different pre-encoded media streams for playback at the client device".

There is no suggestion or teaching in Gunaseelan that the client selects one of the different pre-encoded media streams for playback. Since Gunaseelan 20020097750 fails to teach or suggest at least one limitation of claim 49, Applicants therefore traverse the rejection of claim 49 as being improper under 102(e). The same argument applies to claim 70. Claims 49 and 70 should be allowed.

Regarding claims 27, 35, 56 and 77 it should be noted that claim 27 recites: "*server retrieves pre-decoder buffering capabilities for the client device from a capability server.*"

There is no discussion of a capability server in Gunaseelan 20020097750, and there is no suggestion or teaching that the server retrieves pre-decoder buffering capabilities of the device from a capability server. Applicants therefore traverse the rejection of claim 27 as being improper, since Gunaseelan fails to teach or suggest at least one limitation of claim 27. Claim 27 should be allowed.

The same argument applies for claims 35, 56 and 77, all of which recite the same language as recited in claim 27. For the same reasons as described for claim 27, claims 35, 56 and 77 should be allowed.

B. Rejection of Claims 17, 19 and 20 under 35 U.S.C. § 103(a)

Applicants respectfully submit that West adds nothing to the disclosure of Gunaseelan to overcome the foregoing arguments. Accordingly, claims 17, 19 and 20 are patentable as depending, either directly or indirectly, from allowable base claims. Accordingly, Applicants respectfully request that the rejection of these claims be withdrawn.

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III. Conclusion

The Applicants submit that in light of the foregoing remarks the application is now in condition for allowance. Applicants therefore respectfully request that the outstanding rejections be withdrawn and that the case be passed to issuance.

Respectfully submitted,

May 1, 2007

Date

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